

NTSB Order No. EA-3692

Adopted by the NATIONAL TRANSPORTATION SAFETY BOARD  
at its office in Washington, D.C.  
on the 1st day of October, 1992

Respondent .

Docket SE-10196

Respondent, appearing pro se, has appealed from the oral initial decision of Administrative Law Judge William R. Mullins, issued on November 7, 1989, following an evidentiary hearing.<sup>1</sup> We deny the appeal.

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Federal Aviation Regulations (FAR) 14 C.F.R. 43.13(a) and (b)<sup>2</sup> in connection with his work on a Bell helicopter owned by Petroleum Helicopters, Inc. (PHI). Specifically, the Administrator claimed that a row of seven bolts on the underside of the right horizontal stabilizer support were not tightened as required.

The law judge found that, on May 17, 1988, respondent performed certain work on the helicopter, inspected it, and approved its return to service. Two days later, after approximately 7 hours flight time, a ramp inspection by three FAA employees (two of whom testified for the Administrator)

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<sup>2</sup>§43.13(a) and (b) read:

§ 43.13 Performance rules (general).

(a) Each person performing maintenance, alteration, or preventive maintenance on an aircraft, engine, propeller, or appliance shall use the methods, techniques, and practices prescribed in the current manufacturer's maintenance manual or Instructions for Continued Airworthiness prepared by its manufacturer, or other methods, techniques, and practices acceptable to the Administrator, except as noted in § 43.16.

He shall use the tools, equipment, and test apparatus necessary to assure completion of the work in accordance with accepted industry practices. If special equipment or test apparatus is recommended by the manufacturer involved, he must use that equipment or apparatus or its equivalent acceptable to the Administrator.

(b) Each person maintaining or altering, or performing preventive maintenance, shall do that work in such a manner and use materials of such a quality, that the condition of the aircraft, airframe, aircraft engine, propeller, or appliance worked on will be at least equal to its original or properly altered condition (with regard to aerodynamic function, structural strength, resistance to vibration and deterioration, and other qualities affecting airworthiness).

discovered the loose bolts.<sup>3</sup> According to the log, no other person had performed any maintenance on the aircraft since respondent.

At the hearing, respondent insisted that he had performed the work correctly, and could not have left any bolts loose. He claimed that other PHI employees (two mechanics and a pilot) would have noticed loose bolts and did not. Respondent presented letters from these individuals supporting his position. See Exhibits R-2, 4, and 6.<sup>4</sup>

According to respondent, vibration could have loosened the bolts, and he introduced evidence to show that this and other helicopters had bolts loosen, apparently during operations. Alternatively, he posed two other possibilities: sabotage by a competing company; or further maintenance work done by another, but not completed or logged.

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<sup>3</sup>We reject respondent's suggestion that, because one of the employees -- the one who allegedly "found" the loose bolts -- did not testify, the Administrator cannot prevail. The fact remains that two other FAA employees, as well as PHI's director of maintenance, saw the aircraft, and testified that the bolts were not properly seated.

<sup>4</sup>The pilot states a belief that the FAA supervisor loosened the bolts on purpose, so as to show the trainees "what happens when a violation is found." Apparently, none of these individuals was called by respondent to testify and, thus, none was available for cross-examination. The law judge was, therefore, unable to observe them to assess their credibility. And, in contrast to the version of events set forth in their letters, the record indicates that two of these employees -- the pilot and one of the mechanics -- were also cited by the Administrator in connection with this incident. The record does not indicate the results of those complaints.

The law judge rejected these suggestions, finding a lack of evidence to support the sabotage and additional maintenance charges. Tr. at 152-155. He was unconvinced by the vibration theory, given that in this case seven bolts were loose at the same time and to the exact same degree. Tr. at 149-150. The law judge ultimately concluded that "it's more probably true than not true that you simply erred, Mr. Parrott, and did not complete this work according to the manual and according [to] the standards of PHI." Id. at 155.<sup>5</sup>

The law judge, nevertheless, reduced the sanction from a 28-day to a 15-day suspension of respondent's air frame rating. The Administrator has not appealed this reduction.

In his appeal, respondent claims that the evidence does not support the charge because the Administrator offered no "facts" to support his allegation.<sup>6</sup> It is not necessary (and it would be

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<sup>5</sup>Respondent introduced various service bulletins that indicated problems with the aircraft's stabilizers, and suggests on appeal that these problems were due to bolts loosening in flight. The law judge found no relevance in the bulletins, as they dealt with the integrity of the stabilizers themselves. We, also, have been unable to discern how this information is relevant.

<sup>6</sup>Respondent made certain statements in his appeal that are not evidence. He states that the bolts were tight minutes before the inspection. We find no support in the record for this proposition. He also states that, if the bolts were loose in flight, they would have fallen out and the support holes would have been elongated. There is no evidence to indicate that 7 hours of flight is sufficient to stress the support holes, and the evidence that these bolts were self-locking, and were in that position, undermines respondent's claim that they would have fallen out.

highly unlikely) for the Administrator to be able to produce a witness who could testify that he or she saw respondent sign off on the aircraft at a time when the bolts were still loose. Instead, circumstantial evidence is used. See, e.g., Administrator v. Hodges, NTSB Order EA-3546 (1992). It is the law judge's duty to determine whether this evidence is sufficient to prove the Administrator's case by a preponderance of the evidence.

In this case, we can find no error in the law judge's conclusion. Respondent's inspection required that these bolts be undone and then reattached snugly. Two days later, after only 7 flight hours, they were considerably loose. The log indicated no intervening work. The law judge thoroughly discussed and rejected respondent's alternative theories. A witness for the Administrator testified that it was highly improbable that, after 7 hours flight time, all seven bolts would be loose, and by the same amount. Tr. at 119. Respondent offers no reason to overturn the law judge's conclusion that it would be equally improbable that sabotage or further unrecorded and uncompleted maintenance had occurred. The law judge assessed the credibility of the witnesses, including respondent (and the supporting letters he submitted), and his findings do not appear arbitrary or capricious, or lacking foundation in the record. Administrator v. Smith, 5 NTSB 1560, 1563 (1987), and cases cited there.

Finally, respondent argues that the parts identified in the complaint do not correspond to the parts on which he worked. The part identified as a bolt is actually a screw, and the number given for the support is not for the one involved here. Respondent does not indicate what harm these errors caused him, and we can see none. The purpose of the complaint is to advise respondent of the charges so that he may adequately prepare. These errors were not prejudicial.

**ACCORDINGLY, IT IS ORDERED THAT:**

1. Respondent's appeal is denied; and
2. The 15-day suspension of respondent's air frame rating shall begin 30 days from the date of service of this order.<sup>7</sup>

VOGT, Chairman, COUGHLIN, Vice Chairman, LAUBER, HART and HAMMERSCHMIDT, Members of the Board, concurred in the above opinion and order.

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<sup>7</sup>For the purposes of this order, respondent must physically surrender his certificate to an appropriate representative of the FAA pursuant to FAR § 61.19(f).